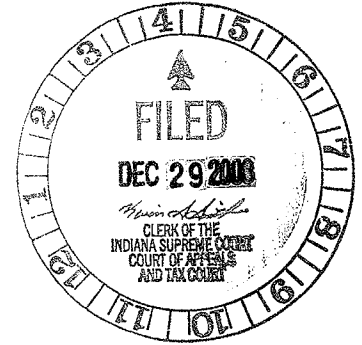


In the  
**Indiana Supreme Court**



IN THE MATTER OF THE )  
 )  
APPROVAL OF LOCAL RULES )  
 )  
FOR BOONE COUNTY )

Case No. 06S00-0812-MS- 775

ORDER APPROVING AMENDED LOCAL RULE

The Judges of the Boone Circuit and Superior Courts request the approval of an amended local rule for caseload allocation in accordance with Ind. Administrative Rule 1(E). Attached to this Order is the proposed amended local rule.

Upon examination of the proposed rule amendment requested by the Boone Circuit and Superior Courts, this Court finds that the proposed rule amendment, LR06-CR00-BLR-13, complies with the requirements of Ind. Administrative Rule 1(E), and, accordingly, should be approved and posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website prior to taking effect on January 1, 2009.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rule LR06-CR00-BLR-13 for Boone County Courts, set forth as an attachment to this Order, is approved effective January 1, 2009. The Clerk of this Court is directed to post a copy of the amended rule on the Indiana Judicial Website prior to January 1, 2009. The Clerk of this Court is further directed to forward a copy of this Order to the Hon. Steve David, Boone Circuit Court, One Courthouse Square, Lebanon, IN 46052-2159; the Hon. Matthew C. Kincaid, Boone Superior Court, 307 Courthouse Square, Lebanon, IN 46052-2159; the Hon. Rebecca McClure, Boone Superior Court, 112 Courthouse Square, Lebanon, IN 46052-2159; and to the Clerk of the Boone Circuit Court.

The Clerk of the Boone Circuit Court is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website prior to January 1, 2009.

DONE at Indianapolis, Indiana, this 29<sup>th</sup> day of December, 2008.

RT Shepard

Randall T. Shepard  
Chief Justice of Indiana

## **NON-DISCRETIONARY FILING OF CRIMINAL CASES**

Effective January 1, 2009, all criminal cases, when filed, shall be assigned by the Clerk to the Circuit, Superior I or Superior II Courts of the Judicial Circuit as follows:

Misdemeanors (cases in which only misdemeanors are charged)

- A. Cases in which the only misdemeanor charged is Operator Never Licensed, I.C. 9-24-18-1 shall be assigned to Circuit Court.
- B. Cases in which the only misdemeanor charged is Driving While Suspended, I.C. 9-24-19-2 or 9-24-19-3, shall be assigned to Superior Court I.
- C. All other I.C. 9 *et. seq.* (Title IX traffic) misdemeanor cases shall be assigned to Superior Court II.
- D. All cases charging misdemeanors under I.C. 35-48-4, 35-42-2-1, 35-43-5 and Title VII crimes, alone or in conjunction with other misdemeanor offenses, shall be assigned to Superior Court II.
- E. All other misdemeanor cases, not covered by A-D, shall be assigned to Circuit Court.

Felonies:

- F. All cases in which one or more felony counts are charged under I.C. 35-36-1-3, 35-36-1-4 or 35-36-1-5 (incest, neglect of a dependent and criminal nonsupport of a child) shall be assigned to Circuit Court.
- G. All cases in which the only felony count charged is Driving While Suspended under I.C. 9-24-2-4 shall be assigned to Superior Court I,
- H. All felony cases, not covered by paragraph F or G, in which the only felony charged is a charge under I.C. 9 *et. seq.* (a Title IX Traffic offense) shall be assigned to Superior Court II.
- I. All felony and misdemeanor operating while intoxicated cases shall be assigned to Superior Court II, no matter what other felony charges may be filed therewith.
- J. All felony cases not assigned, pursuant to paragraphs F through I, shall be assigned 50% to Superior Court I, 30% to Circuit Court and 20% to Superior Court II by random draw as provided in paragraph L below.
- K. If a case charges both a non-traffic code felony and a misdemeanor, other than an alcohol related misdemeanor, the case shall be considered a felony and assigned pursuant to paragraph J above.
- L. The rotation of cases under Paragraph J shall be accomplished by using a set of one hundred balls. The set of balls shall contain 50 balls marked Superior Court I, 30 balls marked Circuit Court, and 20 balls marked Superior Court II. The balls (those selected and those yet to be selected) shall be securely maintained by the Clerk of the Court. Each time a felony case is assigned, pursuant to paragraph J, the Clerk shall draw a ball and assign the case the Court designated on that ball. The ball drawn shall be held by the Clerk with the other balls that have been drawn until all one hundred balls have been drawn. At that point, all one hundred balls shall be returned to the receptacle from which they are drawn and the

process shall begin anew. The Clerk shall maintain a log of the balls drawn and the case assignments made. A "selection sheet" shall be placed in each file assigned, pursuant to paragraph J, noting the person who made the draw and the Court to which the case was assigned.

- M. If, after assignment, a case is dismissed and later re-filed, it shall be assigned to the Court of original assignment. The purpose of this rule is to comply with Indiana Criminal Rule 2.2., so as to provide a procedure for non-discretionary assignment of criminal cases.
- N. In cases assigned, pursuant to paragraph J above, where a charge or charges are filed against one or more than one defendant and such charge or charges arise out of the same factual allegations or same criminal episode, such cases shall be assigned, upon the request of the prosecutor, to the same Court in which the first such case was assigned, pursuant to paragraph J. In such event, the subsequent case or cases shall be assigned to the same court as the first one and another ball shall be removed from the draw for the court to which the subsequent case was assigned.
- O. Notwithstanding Item J above, whenever the Defendant is charged in a cause wherein the basis for the charge or charges has resulted/ or results in the filing of a CHINS proceeding in Circuit Court, then such cause shall be transferred to the Circuit Court, upon request by the Prosecutor, the Department of Child Services, or the Court, on its own motion.
- P. Notwithstanding any of the foregoing, the Judges of Boone County may agree to transfer any criminal case between or among themselves upon good cause shown by the prosecutor or counsel for the Defendant, or upon their own motion, when in the interests of judicial economy or the interests of justice so require.
- Q. In order to comply with Criminal Rule 13 (c), a list of alternative judges shall be maintained in the offices of the Circuit, Superior I and Superior II Courts. On this list shall be contained the names of the regular sitting Judges in the counties contiguous to Boone County. Whenever the appointment of an alternative sitting Judge is ordered by any of the regular sitting judges of the court where the Judge sits, the Judge shall assign the case to one of the Judges on this list on a rotating basis.
- R. This rule shall not, under any circumstances, limit or otherwise alter the option of the regular sitting Judge to request the Indiana Supreme Court appoint a Special Judge in accordance with the Criminal Rule 13(d).